



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

HD:hd
Docket No: 01606-99
25 October 2000

LCDR [REDACTED] USN
[REDACTED]
[REDACTED]

Dear Command [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 29 June 1999, a copy of which is attached. The Board also considered your letter dated 13 September 1999.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

The Board was unable to find the composition of your appraisal board was inequitable or that the location of your billet in the command structure was "viewed as the measure of effectiveness." They recognized that your trait average in the contested fitness report for 1 November 1996 to 30 June 1997 rose from the preceding report submitted by the same reporting senior, for 26 January to 31 October 1996. However, they did not find this inconsistent with the drop in your promotion recommendation from "must promote" (second best) to "promotable" (third best), noting the report states the "promotable" mark "in no way reflects a decline in [your] performance." They acknowledged that the reporting senior's stated reason for marking you "promotable," which was a "change in the number of officers in the competitive category," appeared inconsistent with the fact that the preceding fitness report he had submitted on you showed the same number of officers in your competitive

category. However, this did not convince them that he should have marked you above any of the officers who were marked "must promote." They noted the command fitness report instruction (Tab 5 to your application) provided only guidance concerning the relationship between trait average and promotion recommendation; it did not mandate a certain promotion recommendation for a certain range of trait averages. While they noted the report of the Naval Inspector General inspection of your command (Tab 6 to your application) showed problems were found, and the executive officer's statement dated 14 December 1998 (Tab 3 to your application) indicated he felt you deserved a better promotion recommendation in your fitness report for 1 November 1996 to 30 June 1997, these documents did not persuade the Board that you were unfairly evaluated in the contested fitness reports. Finally, your memorandum for the record dated 12 October 1998 (Tab 16 to your application) did not convince the Board that your new reporting senior who submitted the contested fitness report for 1 July to 31 October 1997 gave pre-ranking guidance to your ranking board to retain all officers in their last promotion recommendation block, in view of the brief reporting period.

In light of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

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PERS-311

29 June 1999

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: LCDR [REDACTED]

Ref: (a) BUPERSINST 1610.10, EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests to change block-42 from Promotable to Must Promote or delete the fitness report for the period 1 November 1996 to 30 June 1997 and remove the fitness report for the period 1 July 1997 to 31 October 1997.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the report in question to be on file. The member signed the reports acknowledging the contents of each and her right to submit a statement. The fitness report ending 30 June 1996 revealed she did not desire to make a statement. The member indicated her desire to make a statement for the fitness report ending 31 October 1997. To date the member's statement and first endorsement have not been received by PERS-311. In accordance with reference (a), Annex-S, paragraph S-8, the member has two years from the ending date of the fitness report to submit a statement.

b. The member requests the promotion recommendation be moved from "Promotable to Must Promote" on the fitness report for the period 1 November 1996 to 30 June 1997 and remove the fitness report for the period 1 July 1997 to 31 October 1997. We cannot make the administrative change or remove the fitness report as requested. Only the reporting senior who signed the report can request changes or submit supplementary material for filing in the member's record. Any supplemental material submitted must be submitted in accordance with reference (a), Annex P, paragraph P-4c.

c. Lieutenant Commander [REDACTED] requesting to change a fitness report and remove another report because her promotion recommendation was assigned promotable vice early promote in a summary group of 13 and 16 respectively. The reporting senior is the judge of the performance of all subordinates. While the member may disagree with that reporting senior's evaluation, it all comes down to the requirement that the reporting senior must make a judgment and rank all the officers. In these cases, the reporting senior assigned promotable to the petitioner. Such a

ranking does not indicate a failing of [REDACTED] part, but rather that the reporting senior gave greater value to the contributions of the other officers in the summary group. While the member may not agree, the ranking is solely within the reporting senior's area of responsibility.

d. While the material the member provides with her petition gives background and insight and reflects favorably on the member, it does not invalidate the fitness reports.

e. Enhancement of chances for promotion is not sufficient reason to remove a fitness report.

f. The member does not prove the report to be unjust or in error.

3. We recommend the member's record remain unchanged.

[REDACTED]

Head, Performance
Evaluation Branch